

Supreme Court of India

Supreme Court of India

General Manager, Telecom vs M. Krishnan & Anr. on 1 September, 2009

Author:J.

Bench: Markandey Katju, Asok Kumar Ganguly

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7687 OF 2004 General Manager, Telecom Appellant Versus

M. Krishnan & Anr. Respondent O R D E R

Heard learned counsel for the appellant. No one appears for the respondents although they had been served.

This appeal is directed against the Full Bench judgment and order dated 14.02.2003 of the High Court of Kerala at Emakulam whereby the Writ Appeal filed by the appellant herein has been dismissed.

The dispute in this case was regarding non-payment of telephone bill for the telephone connection provided to the respondent No. 1 and for the said non-payment of the bill the telephone connection was disconnected. Aggrieved against the said disconnection, the respondent No. 1 filed a complaint before the District Consumer Disputes Redressal Forum, Kozhikode. By order dated 26.11.2001, the Consumer Forum allowed the complaint and directed the appellant 2

herein to re-connect the telephone connection to the respondent No. 1 and pay compensation of Rs. 5,000/- with interest @ 12% per annum from the date of filing of the complaint.

Aggrieved against the order of the Consumer Forum, the appellant filed a writ petition before the High Court of Kerala challenging the jurisdiction of the consumer forum. A learned Single Judge of the High Court dismissed the writ petition. Thereafter, the appellant filed a Writ Appeal before the Division Bench of the High Court. The Division Bench felt that the matter required consideration by a larger Bench and hence the matter was placed before the Full Bench. By the impugned order the Full Bench of the High Court has dismissed the writ appeal. Hence, the appellant is before us by way of present appeal by special leave.

In our opinion when there is a special remedy provided in Section 7-B of the Indian Telegraph Act regarding disputes in respect of telephone bills, then the remedy under the Consumer Protection Act is by implication barred. Section 7-B of the Telegraph Act reads as under:- "S. 7B Arbitration of Disputes :-

(1) Except as otherwise expressly provided in 3

this Act, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person or whose benefit the line, appliance or apparatus is, or has been provided, the dispute shall be determined by arbitration and shall, for the purpose of such determination, be referred to an arbitrator appointed by the Central Government either specifically for the determination of that dispute or generally for the determination of disputes under this Section.

(2) The award of the arbitrator appointed under sub-s. (1) shall be conclusive between the parties to the dispute and shall not be questioned in any Court."